

**LODI CITY COUNCIL
SPECIAL CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
MONDAY, APRIL 26, 2004**

A. CALL TO ORDER / ROLL CALL

The Special City Council meeting of April 26, 2004, was called to order by Mayor Hansen at 6:05 p.m.

Present: Council Members – Beckman, Hitchcock, Howard, and Mayor Hansen

Absent: Council Members – Land

Also Present: City Manager Flynn, Interim City Attorney Schwabauer, and City Clerk Blackston

B. REGULAR CALENDAR

- B-1 "Report on receivables/payables (Comprehensive Annual Financial Report– June 30, 2003) and provide direction for possible future action by Council related to corrections/changes/reversals"

City Manager Flynn noted that Council Member Land was unable to attend tonight's meeting and had asked that any changes be brought back to Council at a regular meeting so that he could participate in the vote. Mr. Flynn introduced Deputy City Manager Keeter who would be reviewing the staff report and supporting documents (all filed) related to the receivables/payables in the amount of \$9,102,363, as reported on page 40 of the Comprehensive Annual Financial Report.

Redevelopment Agency Loan:

Deputy City Manager Keeter reviewed supporting documents pages 1 through 8 related to a loan from the General Fund to the Redevelopment Agency in the amount of \$200,000, plus \$22,050 from the Contingency Fund. An interest rate will be charged to the Redevelopment Agency of 5.460% annually. The entire amount will be repaid to the General Fund from Agency revenues once they are established.

In reply to Council Member Howard, Ms. Keeter acknowledged that there is no redevelopment project area or tax increment at this time.

In response to Mayor Hansen, Mr. Flynn noted that the State has recently been taking away redevelopment agency money, so this is not an opportune time to bring forward the project area issue again.

Interim City Attorney Schwabauer clarified that the referendum did not abolish the Redevelopment Agency; it ended the project area.

In answer to Council Member Hitchcock, Accounting Manager Ruby Paiste reported that \$359,000 had been spent as of June 30 and she would provide Council with a breakdown of what was included in the amount. Community Development Director Bartlam explained that it included a portion of his salary, City Attorney's Office services, and consultant's fees during the time the project area was being established. In addition, it includes interest on the \$222,050 loan.

Mayor Pro Tempore Beckman asked if all the expenses would need to be incurred again if the Redevelopment project area was re-created, to which Mr. Bartlam answered in the affirmative.

Foundation Loan for Design of Auditorium:

Ms. Keeter reviewed supporting documents pages 9 through 15 related to the 1991 loan to the Old Lodi Union High School Site Foundation in the amount of \$170,000 for design of the Hutchins Street Square Auditorium/Performing Arts Theater. The Foundation has repaid \$97,000 of the loan. The Foundation has also "committed" to repay the City \$10.3 million

for completion of the Hutchins Street Square project. To date the City has received over \$1 million in cash from the Foundation, which has been matched by the City in the amount of \$912,500. The total credit to the Foundation for the loan is \$2,012,500. Charlene Lange, former Community Center Director, has recommended that the remaining balance of the 1991 loan (\$73,000) be waived by Council; or that the City's match to the Foundation be used to waive the loan.

Mayor Pro Tempore Beckman questioned whether the money was taken out of the Water and Wastewater capital funds and recorded as a loan with interest and a repayment date.

Ms. Keeter acknowledged that the money was taken out of capital projects and was recorded as a loan; however, it has no interest rate or term of repayment.

City Manager Flynn reported that \$79,000 has been repaid to the enterprise funds. The last payment the Foundation made on the 1991 loan was in 1995. He explained that subsequent to that time the Foundation began making payments toward its commitment to repay the \$10.3 million for construction of Hutchins Street Square. These payments are deposited into the General Fund. He suggested that the Foundation's most recent payment of \$75,000 be transferred out of the General Fund to the Water and Wastewater Funds to pay off the 1991 loan balance of \$73,000.

Mayor Pro Tempore Beckman believed that a loan from an enterprise fund is required to have interest applied to it. He asked that a reasonable interest rate be applied to the 1991 loan and calculated to date to arrive at a total balance due.

Council Member Hitchcock agreed with Mr. Beckman's recommendation.

Mayor Hansen pointed out that the Foundation was not responsible for the decision to take money out of an enterprise fund. He felt that the \$73,000 should be waived.

Council Member Howard was opposed to waiving the loan balance and stated that the money should be repaid and returned to the funds from where they were withdrawn.

Council agreed that it would be appropriate to repay the loan using previous cash payment(s) from the Foundation, as Mr. Flynn had suggested.

In reply to Mayor Pro Tempore Beckman, Mr. Flynn stated that a calculation of the 1991 loan with interest will be made and the information brought back to Council.

Fire Station #4:

Ms. Keeter reviewed supporting documents pages 16 through 24 related to the \$1.8 million construction of the new fire station. Council authorized the use of water and fire impact fees for the project. As there were not sufficient funds in fire impact fees, funds were transferred from the water impact fees in the amount of \$1,396,000.

In reply to Mayor Pro Tempore Beckman, Interim City Attorney Schwabauer referenced California Government Code Section 66013, which addresses the requirement for interest and a repayment date when borrowing from an impact fee program. Impact fees have to be spent on that which they were generated to pay for. He noted, however, that he did not believe the restrictions applied to this situation where the transaction is between two impact fee funds.

Public Works Director Prima recalled that from the date the impact fees were adopted, it was known that there would not be sufficient funds in fire impact fees to build Fire Station #4 and that interfund borrowing would be necessary. In addition, project costs were underestimated. Subsequently, an update of the impact fees was done and fire impact fees were increased substantially.

In answer to Council Member Hitchcock, Mr. Prima reported that \$247,000 has been paid back to the water impact fee fund. He mentioned that staff is updating the impact fee annual report, which includes a detailed history. He anticipated bringing the report to Council in a month.

Council Member Hitchcock expressed concern that there is not adequate coverage on the east side and another fire station is needed. She stated that it appears a huge adjustment is needed because impact fees are so far behind.

In response to Mayor Hansen, Community Development Director Bartlam reported that he would be making a request in the 2005-07 budget to initiate the general plan update. He anticipated the one and a half year process to begin in the later part of 2005.

Mayor Pro Tempore Beckman referenced page 2 of the "blue sheet" (filed) regarding cash balances/fund balances of June 30, 2003, which showed \$898,000 in impact fees for police facilities. Mr. Prima reported that as police impact fees are received, they will be transferred back to the General Fund.

Council Member Hitchcock asked why it does not show as an interfund receivable/payable if police facilities borrowed money from the General Fund. Mr. Prima explained that the project was not completed as of June 30, 2003. Police impact fees are kept in a separate account within the General Fund capital outlay. The impact fee program owes the General Fund \$3.5 million.

Lower Sacramento Road Widening Project:

Ms. Keeter reviewed supporting documents pages 25 through 31 related to the \$7,030,000 construction project to widen Lower Sacramento Road, which included \$796,770 in impact fees. The project was programmed in the Regional Streets Impact Fund; however, funds were loaned from the Parks and Recreation impact fees.

Cash Transfer for CDBG Projects:

Ms. Keeter reviewed supporting documents pages 32 through 37 related to a cash transfer from the Street Fund to the General Fund for Community Development Block Grant (CDBG) projects in the amount of \$582,331. She explained that the City fronts the money for CDBG projects and submits a claim to the County for reimbursement. The Finance Department shows an entry at the end of the fiscal year to allocate the cash to the CDBG projects to "close the books," and reverses the entry on July 1.

Mr. Flynn explained that all Federal, State, and County grant money works similarly, i.e. the City incurs the cost initially and then seeks reimbursement.

Community Development Director Bartlam noted that all CDBG projects are pre-qualified, so it is determined in advanced that they are eligible.

Cash Transfer from Streets Fund:

Ms. Keeter reported that on June 30, 2003, a cash transfer was made from the Streets Fund to the General Fund in the amount of \$1.3 million in anticipation of property and sales tax coming in. The City "booked" \$851,996 in property tax receivable and \$2,125,895.04 in sales tax receivable.

Mr. Flynn explained that property tax in California comes in March and November. Money can be borrowed against property tax (a tax revenue anticipation note) to have cash and incur costs throughout the year. As property tax comes in, the note is paid back. The City did this twice approximately six years ago. Cities are allowed to arbitrage the money if an amount of \$5 million or less is borrowed. It can be invested at a higher interest rate, with the money gained placed back into the fund. Mr. Flynn stated that Lodi made \$50,000 one year and \$75,000 the next. He noted that on June 30, 2003, the City had \$38.8 million in cash. The cash is distributed to where there are deficits on June 30, and on July 1 these entries are reversed.

Investment Transfer/Loan from Electric Utility:

Ms. Keeter reviewed supporting documents pages 39 through 41 related to an "investment" transfer of \$350,000 from the Electric Utility Fund to the General Fund Capital Outlay Fund. The balance of the "loan" reported on June 30, 2003, was \$2,050,000. She recalled that a Certificate of Participation in the amount of \$10 million was issued to construct the Performing Arts Theater at Hutchins Street Square, at which time the City had to demonstrate in the financial plan that it had the revenues to support the debt service. On July 17, 1996, Council adopted Resolution 96-95 authorizing the investment transfer of \$350,000 from the Electric Utility Fund to the General Capital Outlay Fund. The resolution stipulated that the investment transfer would be brought forward annually for Council approval.

Though subject to interpretation as to whether it was an "investment transfer" or a "loan," Mr. Flynn reported that it has been treated as a loan. He reviewed four options outlined in the staff report (filed). He recommended that the transfer be discontinued if it is going to be considered a loan.

Mayor Pro Tempore Beckman asked whether Council could adopt a policy to make loans between an Enterprise Fund and the General Fund at zero interest with no repayment date, to which Mr. Flynn replied in the affirmative.

Council Member Hitchcock pointed out that the resolution stated that it was to occur for five years, yet it has gone on longer than that. Additionally, she questioned why it has not been brought before the Council annually for approval.

Mr. Flynn replied that every time Council has adopted a budget it has shown the \$350,000 transfer.

Council Member Hitchcock countered that a line item in the budget was not meeting the intent of the resolution, which stipulated it would be brought to Council annually for approval.

Ms. Keeter added that the transfer was also noted in the ten-year financial plan that Council reviews periodically, which can be considered as additional disclosure.

Council Member Howard pointed out that the wording in the original staff report, motion, and resolution, consistently referred to an "investment transfer." The only statement saying that the transfer would be paid back by the Foundation was during general comments in the minutes; it was not included in the resolution and therefore is not binding.

Mayor Pro Tempore Beckman commented that he considered the transfer strictly as a loan and asserted that since 1996 the Electric Utility ratepayers have been subsidizing the general government in the City \$350,000 a year. The ratepayers are now owed over \$2 million. He preferred that a plan be brought forward to repay this money and suggested that an electric rate decrease may be in order.

Council Member Hitchcock agreed with Mr. Beckman and recommended that it be paid back at \$350,000 a year.

In reply to Mayor Hansen, Mr. Flynn stated that when the City of Lodi was formed, the enterprise funds were seen as an asset owned by the City in which there was a return. In 1927 City Hall was built solely with money that came from Water and Electric Funds. The fact that the City segregates these funds today is an accounting issue.

Mayor Pro Tempore Beckman recommended that \$350,000 a year for the next seven years be paid back to the Electric Utility Enterprise Fund. He asked that the Electric Utility Director calculate a seven-year residential ratepayer reduction commensurate to \$350,000 a year.

Electric Utility Director Vallow stated that he did not characterize the transfer as a loan. He noted that the money helped to support Parks and Recreation programs. He suggested that no change be made at this time due to overall City budget uncertainties and State impacts.

Council Member Howard suggested that the figure of \$300,000 (as was transferred in the 2002-03 budget cycle) be considered along with \$350,000 to determine what works best and is feasible to take out of the General Fund Capital account. She preferred keeping the flexibility of deciding whether it comes from the Foundation or other funds that are available.

Mayor Hansen pointed out that Lodi does not have a utilities user tax as many other cities do. Funds have been used for various capital projects as a benefit of having the Electric Utility enterprise. He believed that the consequences of discontinuing the annual transfers would be that very little could be done for Parks and Recreation capital projects. He asked Mr. Vallow what \$350,000 a year in rate reductions would equate to.

Mr. Vallow estimated that it would amount to a savings of \$14 a year to residential ratepayers. He mentioned that the market cost adjustment and tiered system further complicates matters when trying to determine an equitable rate reduction of \$350,000 a year.

Council Member Hitchcock pointed out that the 12% Electric Utility in-lieu of tax transfer amounts to over \$8 million a year. She believed it to be an exaggeration to suggest that discontinuing the additional \$350,000 a year transfer would significantly impact Parks and Recreation's capital projects.

In answer to Mayor Pro Tempore Beckman, Mr. Flynn cautioned that Council can lower the percentage of the in-lieu of tax transfer; however, if in the future it wished to raise the amount, it would require voter approval.

Transfer to Transit Fund:

City Manager Flynn reported that the transfer to the Transit Fund of \$2,668,962 from the Wastewater and Water Funds has three issues: 1) the City has a receivable of \$837,249 for Federal funds, 2) impact fee funds for street projects should be used to reimburse the Transit Fund in the amount of \$442,518.71; and 3) charges of \$1,389,194.30 to Transportation Development Act (TDA) accounts for street projects should be charged to other street funds and not the Transit Fund. In relation to the first issue, Mr. Flynn explained that the 2000 Census Bureau put Lodi and Galt together in one census district. An agreement has to be reached with Galt on how to distribute Federal funds for streets. Prior to Galt being placed in Lodi's census area, it only received \$40,000 a year in Federal money for its street work. Now Galt contends that because it makes up 25% of the total population it should get 25% of the \$837,000, which would be a significant increase for Galt and reduction to Lodi. Lodi has incurred costs on street projects that should be reimbursed to the Transit Fund. Mr. Flynn read from supporting documents page 45, Transportation Development Act, *"Outside the apportionment restriction areas, Article 8 allocations may not be made for streets and roads projects until the transportation planning agency determine that there are no unmet transit needs that are reasonable to meet within the jurisdiction of the claimant."* In summary, Mr. Flynn acknowledged that the Transit Fund should not have a deficit. TDA accounts were charged for projects that should have been charged to the Street Fund, Federal Transit, Measure K, General Fund, etc.

With the aid of an overhead presentation (filed), Public Works Director Prima reported that there have been significant capital projects and an increase in operational costs. Rental income from bus fares, the Greyhound lease, and rent from the parking structure is considered discretionary funding, which is used as part of the Department's matching funds. Grants from the San Joaquin Council of Governments (SJCOG) and congestion

mitigation program goes into the 1250 Transit Fund. Federal Transit Administration (FTA) funding comes from two sources: 1) the 5307 apportionment is money the City gets because it is an urbanized area with a population over 50,000; and 2) the 5309 grant program comes through on special "earmarks," as did the \$850,000 toward the parking structure. Public Works has also obtained CDBG money for a few projects, which goes into the Transit Fund. The FTA State Transit Assistance money also goes into the Transit Fund. The Local Transportation Fund is allocated through the SJCOG process, through which Public Works develops a list of projects and makes claims on the money. TDA has a category for bicycle and pedestrian projects. In years past, the City used TDA money for street maintenance and later the budget process was changed to earmark it more toward transportation and transit.

Mr. Prima explained that, up until recently, Public Works would estimate what was needed for transit and street projects and make a claim to the TDA. The money was put into the 329 Street Fund and 1250 Transit Fund accordingly. He noted that with many of the Federal programs the City must spend the money first and then request a reimbursement. For this reason, seeing a deficit in the Transit Fund was not an unusual occurrence. Staff did not keep a close enough linkage between the accounts to make sure that the Transit deficit was going to get covered, and consequently have wound up over time with a real deficit that should not be there. Staff is now better managing the situation; however, there are still problems with the past four years, which amounts to an existing deficit of \$1,605,916.

Mayor Pro Tempore Beckman suggested that a formal letter with a Council resolution be sent to those responsible for the census district map, asking that it be corrected.

Council Member Hitchcock asked City Manager Flynn how the City has been absorbing the deficit each year and what his plan was for notifying the Council about it.

Mr. Flynn replied that an annual financial report is presented each year to Council. He reiterated that the City has \$38,800,000 in cash. He again explained that to see a negative figure in the account is not unusual, i.e. between the time the City has incurred costs and is waiting to be reimbursed.

Council Member Hitchcock asked Mr. Flynn if he had been comfortable with the situation, to which he replied in the affirmative.

Mr. Prima stated that street projects that were funded out of the 329 TDA Streets Account can be repaid out of streets impact fees in the amount of \$445,826. In addition, \$272,852 from the Lodi Lake bicycle/pedestrian project can be repaid to the Transit Account. This will leave a remaining deficit of \$887,238. He reviewed three options for eliminating the remainder of the deficit:

1. Obtain a Measure K advance for future street projects eligible for streets impact fees, use the fees to reimburse Streets/TDA, and transfer it to the Transit Account;
2. Delay other Measure K Local Street Repair funded projects, use Measure K funds to reimburse Streets/TDA, and transfer it to the Transit Account;
3. Make a transfer from General Fund Capital.

Council Member Hitchcock asked for the list of projects that are in the parks impact fee program.

Council Member Howard suggested that Public Works apply for a Measure K advance (option 1) on the Kettleman Lane, Lower Sacramento Road, and Century Boulevard projects.

Mayor Pro Tempore Beckman agreed that option 1 was preferable and recommended that Public Works apply for a Measure K advance on all of the suggested projects with the exception of the vehicle maintenance shop expansion. In addition, he supported delaying the Pine Street overlay, as recommended in option 2.

Council Member Hitchcock believed that postponing street overlays can be "penny wise, but pound foolish." She emphasized the importance of maintaining infrastructure that is in place.

Mr. Flynn stated that at a future meeting staff would return to Council with recommendations on this matter. He reiterated that the Transit Fund should not have a deficit.

Mr. Prima stated that it appears Public Works would not be able to sustain the level of capital projects that it has in the past and is already concerned about operating expenses.

PUBLIC COMMENTS:

- Eunice Friederich commented that she does not see the bus shelters in use and has noticed that there are very few passengers on the City buses. She asked why such large buses are needed to transport two people. She suggested that savings in this area could help to pay off the deficit.
- Arthur Price expressed concern that funds from infrastructure on sewers, water, and the proposed rate increases not be used for some other purpose than for what they were designated. Mr. Price read a portion of a response letter that he received from the Howard Jarvis Taxpayers Association, *"I have concluded, unfortunately, there is not an obvious violation of the law for us to challenge. Proposition 218, which established the rules for utility rates and other users' fees, does not require voter approval for water, sewer, or garbage disposal fee increases. It simply requires that fees and fee increases be limited to no more than the actual amount needed to provide the utility service and be proceeded by detail to affected property owners and a public hearing, at which time owners can present a majority protest if there is sufficient organized opposition to the increase."* Mr. Price believed that Lodi is treading very close to the edge of violating this law of using funds from one source, which requires a vote of the people, on other source that does not require a vote.

Council Member Hitchcock asked City Manager Flynn if the City has cash flow problems, noting that the actual fund balance is \$68 million, but the cash balance is \$38 million.

Mr. Flynn indicated that it is due to the Governmental Accounting Standards Board Statement 34 new reporting standard. The City now has to include assets in its enterprise funds as part of the fund balance.

Council Member Hitchcock recalled that she had previously requested that Council begin receiving cash flow statements, to which Mr. Flynn replied that staff will start sending them out.

MOTION / VOTE:

There was no action taken on the matter.

C. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:05 p.m.

ATTEST:
Susan J. Blackston
City Clerk